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UNITED STATES DISTRICT COURT FILED

DISTRICT OF CONNECTICUT 2010 OCT 19 A 10:27

U.S. DISTRICT COURT
BRIDGEPORT, CONN

Karen Fraser (formerly),	:	
a.k.a Karen Jackson	:	
Plaintiff,	:	
	:	
V.	:	**Civil Case No. 3:10-cv-00183- (WWE)**
Connecticut Department of	:	
Social Service (DSS), et al.,	:	
&	:	
Dulce Fravao	:	
("Official of Capacity	:	
Program Manager'), et al.,	:	**Date 10/19/10**
Defendants.		

MOTION TO AMENDED CIVIL RIGHTS COMPLAINT AND EXPLANATION FOR PLAINTIFFS' FAILURE TO PROCECUTE (DOC. NO. 15 AND DOC. 16)

I. Introduction

Count One. Plaintiff Karen Jackson filed a discrimination action against defendants for denying plaintiff for denying specifically administrative due process and imposing different terms and condition on plaintiff than are imposed to other Connecticut Department of Social Services (DSS) clients; and other than what was the 'agency' uniform practice of procedure and policy. Plaintiff asserts that the Connecticut Department of Social Services legal division Office of Legal Counsel, Regulations and Administrative Hearings (OLCRAH) pre-scheduled a hearing requested by plaintiff on 10/27/2009. In an in- artful and obtuse manner and or the ***malice*** and ***reckless indifference*** on the day of the hearing on February 1, 2010 at 9:30am with the hearing officer on duty announced that there will be no hearing based on the merits that there is

an "absence of jurisdiction" on the part of the defendant. Shocked and stunned by the verbal announcement along with the finality of the judgment giving plaintiff no recourse but to seek relief. Here, the plaintiff is a member of a protected class; Ms. Fraser (formerly) was approved with sufficient cause to have a hearing on a decision by DSS staff that affected plaintiff's benefits; she was denied administrative due process; and DSS continued to give hearings requested by other DSS clients and HOH or Head of Household. At this pleading stage plaintiff does not have to prove the elements of discrimination. Plaintiff does have to assert factual allegations which can plausibly tend to prove the above count one.

Count Two.

Challenging DSS-CCAP administrator whimsly option to send a parent directly to an judicial authority who was clearly not competent to grant a warrant be issued on plaintiff solely based on circumstantial evidence and or non-conclusory evidence (none of which were substantive evidence) and without due process in the State Superior Court is enough to determine what a parent knew in order to cause intentionally fraud to receive said benefits. The judicial indictment of a warrant should carry a higher evidentiary tale; than simply mail being delivered at the listed address and hearsay. Here, shows pure malice and in-difference on circumstantial evidence used to take away plaintiff freedom without her knowledge and her right to halter the situation through DSS-OLRACH administrative procedures.

DSS denied plaintiff due process to a at least an administrative hearing of intentional error of overpayments on or about or during the years 2005 thru 2007 all circumstantial based on false non-verifiable hearsay information and a refusal to do a United States Post Tracer in New York City to verify plaintiff claim of estranged husbands fraudulent actions to prove plaintiff did not knowingly provide, false or inaccurate information. DSS deferred from the uniformed policy manual rules and regulations on notifying the plaintiff/HOH of the violation of the intentional fraud; Along with stopping services that continued to be freely provided and retained by plaintiff which includes but is not limited to CARE 4 KIDS, Food Stamps, and cash assistance. As a result of the finding of intentional fraud resulted in a signed warrant charging plaintiff with Larceny I had been issued on her behalf on or about January 2006.

Moreover, under the theory of disparate treatment, a plaintiff can and has established a prima facie case by showing that "animus against the protected group was a significant factor in the decision taken by the municipal decision-makers themselves or by those whom decision-makers were knowingly responsive." United States v. Yonkers Bd. Of Educ., 837 F .2d 1181, 1226 (2d Cir. 1987). Here, Ms. Fraser (formerly) has asserted, in this amended complaint as a member of the protected class on the basis of being a single female, of color and or minority, and a member of the disadvantaged class along with her civil rights which allows "the provision [due process clause] is designed to exclude oppression and arbitrary power from every branch of government." *Dupuy v. Tedora*, 15 So.2d 886.890, 204 La. 560 (1943). As part of State government the Connecticut Department of Social Services (DSS) violated plaintiffs' "due process" of

law by denying the implication of the law that gives a "person affected thereby to be present before the hearing officer which pronounces judgment upon the question of liberty in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controvert, by proof, every material fact which bares on the question of right in the matter involved. If any question of fact or liability be conclusively presumed against her, this is **not** due process of law."

Delay between the time of the underlying incident and the date of the administrative hearing is generally not a violation of a party's due process rights. An 'agency' does, however, have the duty to hold a administrative hearing reasonably promptly after the matter has been noticed. *[See, Cortland Nursing Home v. Axelrod, 66 NY2d 169 (3rd Dept. 1985)].* A very lengthy delay, which is not attributable to the private party's own actions, can be a due process violation if it manifestly prejudices the private party's ability to present his case. *[See, Sharma v. Sobol, 188 AD2d 833 (1992)].*

II. FACTUAL BACKGROUND COUNT I

Connecticut Department of Social Services (DSS) Department of Office of Legal Counsel, Regulation and Administrative Hearings (OLCRAH) were not prohibited by statute, rule or regulation from allowing plaintiff to seek the request on 10/27/2009 an appeal process even after DSS has decided the case on the claimed merits. Plaintiff faxed a **HEARING REQUEST FORM (W-534. Rev. 1/06) to** DSS-OLCRAH fax number: (860) 424-5729 from the Superior Court at Bridgeport court service center at 9:24am along with a fax confirmation of receipt.

Requesting hearing to dispute the decision and or intended action of disqualify benefits on the basis of intentional error solely on the part of plaintiff whom is considered HOH (by Department of Social Services Regulations) and one out of two of the adult household[1] family[2] members whose circumstances are taken into consideration when determining intentional error.

After an extensive delay by DSS-OLCRAH and through the U.S. Post Office a certified mail from defendant DSS to plaintiff's P.O. Box DSS set a hearing date of February 1, 2010 at 9:30am. The defendant(s) DSS-OLCRAH and Dulce Fravao acknowledged that plaintiff had a right and good cause that was appropriate to appeal the defendants own decision by acknowledging on or about the latter part of November 2009 through voice-mail that verified the request for the hearing was received by DSS-OLCRAH and a confirmation of a hearing would be sent out. Plaintiff made several phone calls to DSS-OLCRAH during the month of December 2009 to when a hearing date would be sent out to plaintiff without any further communication from DSS-OLRACH until January 6, 2010. On 01/06/2010 Plaintiff contacted DSS-OLCRAH representative "Marie;" (who identified herself over the land-line as an employee at DSS-OLCRAH) requested plaintiff to fax DSS-OLCRAH the request again because "Marie" could not find any evidence of registered mail nor proof of any fax sent for a hearing for

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[1] **Department of Social Services Child Care Subsidy Regulations Section 17b-749-01. Definitions(25) "Household"**- means all of the individuals who live together at the same address, including individuals not included in the CCAP family unit for eligibility purposes.

[2] **Department of Social Services Child Care Subsidy Regulations Section 17b-749-01. Definitions(22)**(22) "Family" means the group of individuals in the same household whose circumstances are taken into consideration when determining eligibility for the CCAP Program pursuant to section 17b-749-02 to17n-749-23 of the Regulations Connecticut State Agencies, inclusive;

HOH Karen Fraser. Finally, DSS-OLCRAH sent plaintiff confirmation of a hearing scheduled for February 1, 2010. Here, DSS-OLRACH determined that an appeal for a hearing requested by the plaintiff was warranted and provided the plaintiff and or defaulting party with her "day in court" and was grounded at the time in precepts of fairness, justice, and common sense.

Plaintiff was granted and arrived on time at 10am view on or about 1/29/2010 the right to view Karen Fraser (recognized DSS as HOH) case record. Which was the Thursday (two days) before the DSS-OLRACH pre-scheduled hearing on February 1, 2010 9:30am. The notification was announced verbally (by phone) on or about 1/26/2010 by a Mr. Gatlin part of DSS supervisory staff. During Karen Fraser review of said case record; Karen Fraser and or plaintiff was denied copies of the case record by direct order from DSS representative Keith Gatling according to the subordinate that supervised Karen Frasers' viewing of said case record.

Plaintiff, was shocked at the denial accompanied with sharp pain of a headache with a projection of outwardly voiced anger. Plaintiff translated that anger in demanding a answer from Mr. Gatling himself. Mr. Gatling stated (during a direct phone conversation with plaintiff): "I was instructed to allow you to review the records not to make copies. "If you want copies, I will ask if you can get copies and call you back." Plaintiff, did not wait for Mr. Gatling's return his phone call. Plaintiff, then left 925 Housatonic Avenue Bridgeport, CT 06606 which is on the east of Bridgeport traveled to the west side of Bridgeport to fax a request for copies of the viewed case record for Karen Fraser to the Western Regional Administrator Frances A. Freer along with several other requests.

Mr. Gatling, called Karen Fraser on 1/29/2010 on the after 1:20pm and stated that plaintiff can return at 3pm that afternoon. Plaintiff then made a return trip to the DSS local office to get and thus fore received the copies from the case record. Original request to view Karen Fraser (HOH) case record was faxed on 01/19/2010 (Connecticut Department of Income Maintenance Uniform Policy Manual 10115.10(2)).

Plaintiff arrived on time for above said hearing at the DSS local office at 925 Housatonic Avenue Bridgeport, Connecticut 06606 at 9:25am. DSS representative Amie Ozycz along with the subordinate DSS employee who was assigned to observe Karen Fraser exhibiting the case record was present for the hearing as per previously sent **Administrative Hearing Summary.** Plaintiff was motioned by Amie Ozycz to come into the room where the hearing was being held. As plaintiff entered the hearing room plaintiff was abruptly told verbally by the DSS-Office of Administrative and Appeals Hearing Officer Miklos Mencseli via-satellite:-"my Program Manager Dulce Fravao told me …." "we do not have jurisdiction to hear this case."

Therefore, a pre-scheduled hearing by DSS-OLCRAH was not held; in-turn plaintiff was denied the right to contest information in a way adversely affects the plaintiff's status as HOH family's eligibility efforts. Which became the catalyst in creating the inability for plaintiff to further exhaust all remedies to appeal any and all administrative remedies. Plaintiff, demanded a letter stating the denial of the pre-scheduled hearing from DSS-OLCRAH Dulce Fravao by several phone calls to between herself and DSS-OLCRAH Director Brenda Parrella's between the hearing date and

1/24/2010 without any reciprocal in any form of communication from DSS-OLCRAH representatives. Until, plaintiff contacted the State of Connecticut Attorney General Richard Blumenthal Office on 2/24/2010 at 4:05pm.

On a letter dated 2/26/2010 and mailed 3/1/2010 DSS-OLCRAH Administrative Hearings Processing Unit: : .... "This letter is in regard to your request for an administrative hearing received in our office on 1/6/2010. Unfortunately, this office does not have the jurisdiction to handle this issue as a court of competent jurisdiction has already made a decision on this disqualification matter. The hearing previously scheduled for 02/01/2010 was therefore cancelled....." Along with 1page of several directly partially dictating the CCAP administrator's[3] administrative duties to administrative disqualification hearings which did not include and not limited to the **Pre-Hearing Interview(2)UPM** according to the "State of Connecticut Regulation regarding Administrative Hearing Process (requested by plaintiff hearing that scheduled and cancelled by defendant(s)) requested by plaintiff to hear the evidence of intentional error not to dispute the finding of competent jurisdiction granting accelerated rehabilitation. Sec. 17b-749-21,22 **Administrative Disqualification Hearings(j) Hearing Process**. Regulations of Connecticut State Agencies. [4]

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[3] Department of Social Services Child Care Subsidy Regulations Section 17b-749-01. Definitions(13) "CCAP administrator" means the unit designated by the department and acting under its direction that is responsible for the day-day administration of the CCAP program.

[4] Sec. 17b-749-22. Administrative Disqualification Hearings(j) Hearing Process (1) The Department shall have the option of referring a case for an administrative disqualification hearing if the CCAP administrator determines that overpayment was caused as the result of intentional error was intentional. The standard proof that he administrative hearing officer shall use in making his or her decision is by clear and convincing evidence. The administrative disqualification hearing process shall be conducted in the same manner as an administrative hearing process shall be conducted in the same manner as and administrative hearing and is subject to requirements of section 17b-749-21 of the Regulations of Connecticut State

Plaintiff contends, the 10/27/2010 request for hearing was based on evidence not provided prior to Karen Fraser and or parent with the opportunity to review the evidence supporting the DSS-CCAP administrator's precluded allegations of overpayment caused as the result of an intentional error by the parent to commit fraud in obtaining benefits from DSS-CCAP. And to receive an explanation of the following information:

(A) the evidence supporting the overpayment and the determination that the error was intentional.

(B) the administrative hearing process and the parent's administrative hearing rights;

DSS- UPM**(m) Pre-Hearing Interview**[5] Plaintiff as a parent was entitled to an administrative hearing, disqualification or otherwise to dispute an intended action to reduce or terminate benefits. The parent shall not be entitled to an administrative hearing to dispute the findings of the administrative disqualification hearing official or the penalty imposed.

DSS is determined not to make any attempts to remedy the apparent

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Agencies, except as otherwise stated in this section.(2) The CCAP administrator shall treat overpayments caused by the parent as intentional until an appropriate authority has confirmed the preliminary decision that the error was intentional. The CCAP administrator shall not impose a disqualification penalty until the decision that the error was intentional becomes final.(A)if a court of competent jurisdiction finds that the parent has committed fraud or grants accelerated rehabilitation; or....."

[5] (m) Pre-Hearing Interview(1) The CCAP administrator shall send parents referred for an administrative disqualification hearing notice scheduling a pre-hearing interview and a waiver of administrative disqualification hearing form....(2) The purpose of the pre-hearing shall be to provide the parent with the opportunity to review the evidence supporting the CCAP administrator's allegations, to receive an explanation of the hearing process....The CCAP administrator shall provide the parent with a detailed explanation of the following information: (A) the evidence supporting the overpayment and the determination that the error was intentional;

violation of plaintiffs civil rights which may indicate that the party does not take their own governing proceedings or the rules governing it seriously, while a first-time attempt to reopen may be seen as the result of a simple and forgivable error on the part of the party.

III. FACTUAL BACKGROUND COUNT II

On or about the years 2005-2006 a DSS-CCAP administrator made a preliminary determination that plaintiff as the only family member (in a two adult household) to have knowingly withheld or provided false information on matters affecting eligibility, benefits or a claim for service and referred the case directly to a judicial authority at Fairfield County Superior Court at Bridgeport Connecticut signed by Judge Owens based on plaintiff estranged husband and domestic violence abuser ability to manipulate the exterior mail box to plaintiff's home without the knowledge and permission to establish a Connecticut residence to defray higher child-support payments in New York State where at the same time 2003-2007 he was excursing his voting rights and residency as a New York State resident in Brooklyn New York. During which time DSS -CCAP administrator classifies plaintiff's as a parent to have intentionally committed fraud barring any other reason for such an occurrence. On the merit of estranged husband (whom did not physically live in the home nor contributed monetarily in any form or fashion) manipulated the U.S. Postal service in receiving mail at plaintiff's listed address at the time of DSS fraud investigation.

IV. DISCUSSION

Indeed reopening defaults burdens the administrative process by rescheduling and reactivating previously decided matters and, a controlling authority Dulce Fravao according to the hearing officer was not given the authority to exercise his considered discretion in addressing plaintiffs' and or HOH request to appeal a DSS administrative decision of denial of benefits.

The impromptu revised administrative decision "absence of jurisdiction" by Dulce Fravao delivered via satellite verbally through the assigned DSS OLCRAH department hearing officer on (the same day and time of the pre-scheduled hearing at the local DSS office of 925 Housatonic Avenue Bridgeport, Connecticut 06606) was not appropriate time for defendants to incorporate new findings of fact or conclusions of law. DSS violated their own **CONNECTICUT DEPARTMENT OF INCOME MAINTENANCE UNIFORM POLICY MANUAL or (UPM)** as described above by not following the agency's procedures and in the same manner as the original decision, including notification to plaintiff and plaintiffs' rights. DSS chose not to practice the uniformity exercised to others and or clients and or Head of Household (HOH) when it comes to the consistency proceeding and conducting a pre-arranged and approved hearing.

Plaintiff has personally experienced this consistency of requesting a hearing, being notified by certified mail through the U.S. Post Office with a hearing date and location. Thereafter, a discovery like form based on the evidence of the merits based decision is sent to the HOH/Head of Household.

The HOH announces his/her appearance in the local DSS office in an pre-assigned room where with a representing DSS staff member(s) and the hearing officer appearance via-satellite then the hearing commences. This sort of consistency where facts and circumstances are similar, similar results should and most likely are and were to be expected by plaintiff.

DSS and Program Manager Dulce Fravao departed from agency precedent on this particular matter, such a departure should be well reasoned and the reasons for the departure explicitly set-forth. Unfortunately for plaintiff, the hearing officer was ordered and or instructed by DSS legal division OLCRAH Program Manager Dulce Fravao set those reasons forth absent of facts or circumstances supporting the departure and reversal on a uniformed administrative procedures. This reversal on DSS uniformed administrated hearing procedures required plaintiff to file a civil rights complaint with federal judicial review of the case. All legal procedures set to statute and court practice, including notice of rights, must be followed (but were not followed by defendant(s)) for plaintiff so that no prejudicial or unequal treatment will result. The universal guarantee of due process is in the **Fifth Amendment** to the U.S. Constitution, which provides "no person shall...be deprived of life, liberty, or property, without due process of law,"[1] and is applied to all states by the **14th Amendment**. From this basic principle flows many legal decisions determining both procedural and substantive rights of which the Connecticut Department of Social Services in a transparent way has refused to adhere to the letter of the law.

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[1] The People's Law Dictionary

A private party and or individual who loses before the 'agency' has a due process right to a decision that explains the reasons for the decision. Thus, an or agency's opinion must contain enough information to show the reasoning process for the result reached, and to allow a reviewing court to understand the basis for the decision. In very simple cases less explanation is required; in more complex ones a more detailed explanation is necessary. An agency opinion need not be the equivalent of a formal judicial opinion, but it does need to contain enough explanation to show how the result was reached from the evidence presented in the case. *[See, Koelbl v. Whalen, 63 AD2d 408 (3rd Dept. 1978)].* Parties also have a right to an opinion that is consistent with past agency decisions, or explains the reasons for departing from precedent. An opinion that is inexplicably contrary to other agency decisions reached on similar facts is a due process violation. *[See, Charles A. Field Delivery Service v. Roberts, 66 NY2d 516 (1985)].*

The conclusions of law or reasons for the decision are, in turn, based on the findings of fact and to which relevant statutes, regulations and case law are applied. The determination to not hold the pre-scheduled hearings or a final written decision notifying HOH and or plaintiff of her rights of recourse and only citing an "absence of jurisdiction" is not *based upon* the facts of all evidence in defendant(s) possession (HOH case record case no. 003098957 from 2005-present). Assuming state law exempts a state agency from such liability, a proper conclusion of law might be that the State Department of Social Services (DSS) is not liable for any civil rights violations caused by denial of administrative due process (because state law exempts DSS and DSS-OLCRAH Program Manger from liability).

DSS decisive and concluded findings should only be made based on evidence contained within the entire case record. The hearing officer/examiner own knowledge – whether it is of agency practice, a particular person or thing, or any other item outside of the record – cannot be included in the findings of fact. How can there be a claim of "absence of jurisdiction" on the part of DSS when acknowledgement in the form of a hearing date which was pre-arranged by the defendant(s) own Office of Legal Counsel, Regulation and Administrative Hearings. Which makes defendants claim of absence of jurisdiction is moot. Therefore, defendants DSS and DSS-OLCRAH Program Manager Dulce Fravao had no any legal grounds of to make the decision made clear to plaintiff which included but was not limited to stating explicitly the statutes, regulations or precedent is null and void. Since the authority argued for DSS has rejected proceeding with pre-scheduled hearing procedures such as that the current case is distinguishable from the cited law or that the law has changed since the argued decision was issued – should be included.

DSS and DSS-OLRACH Program Manager Dulce Fravao are required by practice and or regulation that decisions issued hearing officers be reviewed internally prior to release to or service on the parties. Such review will likely take place within the adjudication unit of the agency or department, and will generally focus on grammar, structure and other form-related elements of the decision. The agency itself has a stake in ensuring decisions are well written, and providing for in-house review prior to release is one way in which its interest may be protected.

DSS and it's staff have blatantly not protected the State of Connecticut or The State Department of Social Services itself by denial of administrative due process.

Upon discovery and judicial review of non-draft decisions might also involve review for consistency with agency policy, agency and court precedent, and state and federal law. In such a case, discussions between a supervisor or other reviewing authority may take place, hopefully ending with agreement between the supervisor and the decision's author. Which makes DSS and staff member in her official capacity of DSS OLRACH Program Manager Dulce Fravao liable for violating plaintiffs' civil rights of right of administrative due process.

DSS REVISED DECISION

Regardless of the best efforts of hearing officers, and administrative and agency staff, the heavy workload under which many adjudicative units are pressed can lead to clerical or typographical errors.

DSS is obviously wishes or is claiming the of revision for an administrative reason such as a scheduled hearing date (with all parties notified) typographical error should must be distinguished from revision for a substantive reason or revision based on a granting an administrative hearing based on good cause as reopening of the proof in the case.

V. STANDARD OF REVIEW

In deciding clerks Motion to Dismiss, the court must take the allegation of plaintiff amended complaint as true an construe them in a manner favorable to the plaintiff. Hoover v Ronwin, 466 U.S. 558, 587 (1984); Jaghory v. New York State

Department of Education., 131 F.3d 45, 51 (2d Cir. 2006): Leibowitz v. Cornell University., 445 F.3d 586, 591-92 (2d Cir. 2006).

The court's analysis is guided by Fed. R. Civ. P. 8(a)(2) ("Rule 8(a)(2)"), which requires "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2).

The Supreme Court has recently held that rule 8(a)(2) "requires factual allegations sufficient 'to raise a right to relief above the speculative level." Boykin v. KeyCorp, 521 F. 3d 202, 213 (2d Cir. 2008) (quoting Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007). This "plausibility standard" in Twombly "is not akin to a 'probability requirement,' but it asks for more tan a sheer possibility that a defendant has acted unlawfully." Ashcroft v. Igbal. 129 S.Ct. 1937, 1949 (2009) (quoting Twombly, 550 U. S. at 555).

Plaintiff has established continued violation by allegations of a discriminating act occurred. Johnson v. Gen. Electric., 840 F .2d 132, 137 (1st Cir. 1988)).

VI. EXPLANATION FOR FAILURE TO PROSECUTE (LOCAL RULE 41)

Plaintiffs' suit was not amended or filed within the appropriate time allotted and notice given to pro se litigant because plaintiff and her three boys 7yrs, 5yrs, and 3yrs old (within single adult self-supported household without any outwardly assistance or resource from social service and family biological and otherwise) contracted sickness of three separate contagious infections; "pink eye," ear infection and the flu in the last two weeks in September and the first two weeks of October 2010.

As the sole caretaker of three children and plaintiff was dominated emotionally and physically to her children then to help herself out of the same sickness took four weeks. Plaintiff now has her "head above water" and children are healthy again plaintiff created the time to take action in this Federal Procedure.

Plaintiff strongly appreciate the Court and or Senior United States District Judge Warren W. Eginton for excursing his discretion by an order to extend the time for plaintiff to act upon the civil complaint by issuing a second and final warning to plaintiff on October 15, 2010 (Doc. 16) to take action on this civil rights procedure extended to November 15, 2010.

VII MENTAL AND EMOTIONAL DISTRESS DAMAGES

Specific Factual Background

On April 9th 2008 plaintiff unaware ran a red light (traffic ticket was later dismissed). Consequently, the Bridgeport Police Officer ran the plaintiffs driver's license. At this time and the first time plaintiff was informed that there has been an active warrant for her arrest since January 1, 2006 for larceny I welfare fraud. Along with Plaintiffs' one year old was arrested and confined to a Bridgeport Police car and then transported to the State of Connecticut Troop G. Plaintiff car was impounded and sold because Plaintiff could not pay the fees to take the car out.

Plaintiff was separated from her son who turn one that day and was finger printed and taken to a solitary jail cell. Karen Fraser started to scream in blood curdling fear about her pronounced claustrophobic fear of being confined in small spaces.

Plaintiff was placed in a wider cell. During this time anxiety and stressful thoughts of these caucasian men in uniform probably mis-treating and molesting my son along with the emotional stress my son felt and is feeling upon seeing his mother taken away with handcuffs and is surrounded by strangers with guns. With the same thoughts remained with Plaintiff other two children in a strangers care.

Plaintiff then had to attend monthly criminal hearings. On one these particular days plaintiff arrived at the to criminal court called GA 2. While waiting a emergency call was issued to plaintiff that the caretaker of her youngest child left Bridgeport, Connecticut in an emergency and traveled to Norwalk where she left the baby with a 15yrold boy. Plaintiff paid a cabby the only $25.00 she had for the week and took a cab to Norwalk. (Notarized letter from the "cabby" in criminal file) Plaintiff could not return to court that day and made numerous follow-up phone calls to defense counsel without a reply or a notification of what happened that day. Some weeks later on or about prior to Columbus Day weekend of 2008. Plaintiff found out that there was an active warrant for her arrest. Before, plaintiff could request the warrant be vacated in Stamford Superior and or criminal Court who had jurisdiction vacate such a warrant. Unfortunately, for plaintiff and her children. Plaintiff's ex-husband seized the chance further extend his emotional domestic violence abuse by calling the Bridgeport Police to state that Plaintiff had a warrant for her arrest. Plaintiff was then shackled in front of my children (who still have those memories) and taken away to Bridgeport Police station finger-printed for four days on suicide watch.

On the next court date expecting to be released on a lower bond of $10,000.00 cash. The judge decided to send a mother of three with no prior record to prison for the next 22 days. During plaintiff stay at Niantic Women's Prison known as "the farm." Regardless of your crime--breach of peace, domestic matters, prostitution, or murder--if you are a woman arrested and unable to make bail or convicted of a crime in Connecticut, you will go to York where plaintiff stayed until the title of "suicide watch." While imprisoned plaintiff cell had a large enough slit to observe the outside but to also have the outside observe the prisoners. The correctional officers cut a path in the grass as short cut to building that housed plaintiff. At anytime while on the lavatory, getting dressed, undressed correctional officers looked inside the slit of a window as they passed. While housed in the medical unit house with 3 other one of which active tuberculosis and the other withdrawing from heroine. She cried and screamed for 7 hours a day while she daily defecated and urinated in the shower and she fell unconscious hit her head on the floor and was removed from the room. Inmates arrive, they are all housed together, regardless of the crime. The environment is very dangerous. Once they have completed the strip search, de-lousing procedure, urine tests, and have removed all of their personal property (York does not permit inmates to retain any personal property including undergarments), plaintiff was housed along with other prisoners in a unit called Assessments, again mixed with other incoming prisoners, 2 to a cell.

Plaintiff, suffered from continuous bouts of high blood pressure and a continued intense feeling of anxiety. On October 31, 2008 plaintiff filed a pro se motion to lower the $10,00.00 cash bond a $5,000.00 assurety bond.

Plaintiff's only biological support system denied her the $500.00 financial assistance because of their belief system of plaintiff's incarceration. A non-family member took pity on plaintiff and paid for her bail which led to her subsequent release.

Since, being incarcerated every sign of a police car a state troopers vehicle and constant feeling of being followed and watched. Along with the daunting feeling of being re-arrested. However, plaintiff copes upon entering and judicial environment with marshall armed or otherwise increases plaintiffs stress level to a maintaining migraine and dull back pain. Plaintiff in preparation of entering a judicial environment plaintiff consumed 10 Advil's to numb the anxiety and headache to come.

Plaintiff clearly understood that the State assigned ineffective over-worked part-time employed counsel defending plaintiff and the State prosecuting plaintiff. That mathematical probability after a trial of the risk it will not end in plaintiff's favor of 25yrs was too much of a risk of a mother of three 6 yrs and under. Facing 25yrs for Larceny I and Failure to Appear. Plaintiff accepted a plea of Accelerated Rehabilitation (AR) with one year probation along with forcing plaintiff who had proven to the court that she lives below the poverty level to pay back $19,000.00 by October 11, 20011.

Meanwhile, plaintiff's has been unable to mourn her mother's death of April 29, 2008 after a long-term battle with cancer of the spleen, brain and liver. No automobile. Could not take my children to Mandarin classes on scholarship in Greenwich. The inability to get a position in her field as a practicing social worker or even a substitute teacher because of plaintiff's arrest record(s).

While battling, evictions, Domestic Violence (Order of Protection against ex-husband for physical abuse), Magistrate Court, DCF investigation(s), Custody in Superior Court, DSS fraud investigators and continued mental anguish attacks from plaintiff's ex-husband. In-addition to raising three children while food pantry and breakfast was a daily routine at the Rescue Mission on Fairfield avenue in Bridgeport. Connecticut.

With that horrid experience at the fore-front of plaintiff's mind. Plaintiff's faced yet another DSS hearing (many of which plaintiff has won all decisions in her favor) advocating for her rights on 02/01/2010. Just to be embarrassed, rejection, raped of her civil rights, ashamed , increase my anxiety, a stemming sharp headache and a distress level that commanded plaintiff to yell as to why her civil rights are being violated. Plaintiff filed a civil rights complaint two days later on February 5, 2010 plaintiff sought relief from the Federal Courts.

Thereafter, DSS has continued to harass and or retaliate against plaintiff to this present day this motion is being filed in the form of procedural administrative delays in denying food stamps (for plaintiff and her three children for the past 10 months and counting). and simply ignoring the majority of plaintiff's entitled requests whether By phone, fax or mail certified or otherwise as several exhibits will prove provided with this motion.

Emotional distress damages are available even where the plaintiff has not sought medical treatment. A[M]edical testimony, although relevant, is not necessary. . . . [T]he plaintiffs own testimony may be sufficient to establish humiliation or mental

distress. Williams v. TWA, 660 F. 2d 1267 (8th Cir. 1981). See also Hammond v. Northland Counseling Center, 218 F.3d 866 (8th Cir. 2000); Ross v. Douglas County, Nebraska, 234 F. 3d 391 (8th Cir. 2000).

As expert testimony is not required to support plaintiff's an emotional distress claim under the Federal Civil Rights Acts. Plaintiff sparsely throughout 2008 thru 2010 the State of Connecticut York Correctional Institute medical records and Husky A medical insurance program medical records; along with expert witnesses will reveal and or describe plaintiffs' conduct in seeking assistance from primary physician, varied social services programs, and psychiatric assistance for the still concurrent, mental anguish, anxiety, sleeplessness, distress, and depression , high blood pressure, headaches and humiliation. In addition to a slew of family members and friends whom have observed plaintiffs above described symptoms and behavior(s). Expert testimony must pass muster under Fed. R. Evid. 702. (citing with approval a number of cases where psychologists testified about the causal connection between discriminatory conduct and emotional injury).

The U.S. Supreme Court has noted with respect to emotional distress damages that Agenuine injury in this respect may be evidenced by ones conduct and observed by others. Carey v. Piphus, 435 U.S. 247, 264 n. 20 (1978). The Eighth Circuit has held that a plaintiff's own testimony may be adequate to support such an award and the testimony of family and friends is also probative. Kucia v. Southeast Arkansas Community Action Corp., 284 F. 3d 944, 947 (8th Cir. 2002) (plaintiffs own testimony enough); Morse v. Southern Union Co., 174 F. 3d 917, 925 (8th Cir. 1999)

(affirming $100,000 emotional distress award where family members corroborated plaintiffs testimony); Kim v. Nash Finch Co., 123 F. 3d 1046, 1065 (8th Cir. 1997) (award of $100,000 affirmed where plaintiff, his wife and his son testified regarding anxiety, sleeplessness, stress, depression, high blood pressure, headaches and humiliation). Rowe v. Hussmann Corp., 381 F. 3d 775, 782 (8th Cir. 2004), upholding an award of $500,000 in compensatory damages for emotional distress....case. The Court held that the awards were not excessive in light of the years-long harassment and the company's failure to take any action despite repeated complaints.

VIII CONCLUSION ACTUAL COMPENSATORY DAMAGES & PUNITIVE DAMAGES

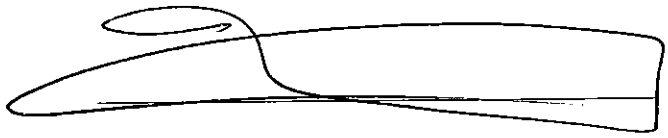
Plaintiff has offered specific fact(s) as to the nature of her claim of emotional distress and its causal connection to defendant(s) violative actions to be awarded compensatory and punitive damages beyond the letter of the law. Plaintiff has offered discriminatory practices with malice and reckless indifference to the federally protected rights of plaintiff as described above. In *Kolstad v. American Dental Ass'n*, 119 S. Ct. 2118 (1999), the Supreme Court defined the standards for punitive damages under the Civil Rights Act of 1991, which amended the law to allow for punitive damage awards in intentional discrimination cases under Title VII and the ADA. A complaining party may recover punitive damages if the defendant "engaged in a discriminatory practice or discriminatory practices with **malice** or with **reckless indifference** to the federally protected rights of an aggrieved individual." 42 U.S.C. § 1981a. The Court unanimously rejected the notion that punitive damages are only available for "egregious"

discrimination, as compared to "garden variety" discrimination. The terms "malice" and "reckless" refer to the actor's state of mind and its knowledge that it may be acting in violation of federal law. Egregious acts may, of course, be evidence supporting an inference of the requisite "evil motive;" procedural due process claim is entitled to those damages that are caused by the denial of the process required by the Constitution. Id. at 1117-18, citing Carey v. Piphus, 435 U.S. 247, 263, 98 S.Ct. 1042, 55 L.Ed.2d 252 (1978).

The Carey decision clarified the type of damages available for a violation of procedural due process. The Court began by recognizing that the procedural due process clause has the dual purpose of protecting persons from the mistaken or unjustified deprivation of life, liberty or property, and of conveying to the individual a feeling that the government has dealt with her fairly. 435 U.S. at 259, 261-62, 98 S.Ct. 1042 Alston v. King, 157 F.3d 1113 (7th Cir.1998). $92,500 for the procedural due process violation. ^^^he submitted sufficient evidence of damages to avoid judgment as a matter of law.

As the Courts determine whether the evidence of emotional distress is sufficient to support an award of damages. Plaintiff has produced direct evidence of emotional distress and the circumstances of the act that allegedly caused the distress. The more inherently degrading or humiliating the defendant's action(s) is, the more reasonable it is to infer that a person would suffer humiliation or distress from that action; consequently, somewhat more conclusory evidence of emotional distress will be acceptable to support an award of emotional distress.

Doe's argument suggests that it would have been illogical for Congress to create a cause of action for anyone suffering an adverse effect from intentional or willful agency action, then deny recovery without actual damages. But subsection (g)(1)(D)'s recognition of a civil action was not meant to provide a complete cause of action. A subsequent provision requires proof of intent or willfulness in addition to adverse effect, and if the specific state of mind must be proven additionally, it is consistent with logic to require some actual dam-ages as well. Doe also suggests that it is peculiar to offer guaranteed damages, as a form of presumed damages not requiring proof of Cite as: 540 U. S. ____ (2004) 3 Syllabus amount, only to plaintiffs who can demonstrate actual damages." which plaintiff has demonstrated.



Karen Fraser (formerly)

P.O. Box 3194

Bridgeport, Connecticut 06605

Civil Case No. 3:10-cv-00183-(WWE)

EXHIBIT PAGE 1

Exhibit # 32 A:- Fax Cover Page To Amie Ozycz Grievance Mediation Specialist
Exhibit # 32 B:- Letter To Amie Ozycz Mediation Specialist
Exhibit # 32 C:- Letter To Amie Ozycz 2nd Page

Exhibit # 31 A:- Fax Cover Page To Miklos Mencseli Hearing Officer, DSS-OLCRAH
Exhibit# 31 B:- Letter Sent to Amie Ozycz Grievance Mediation Specialist
Exhibit# 31 C:- Letter Sent To Amie Ozycz Grievance Mediation Specialist 2nd Page

Exhibit #30 A:- Fax Cover Page To Ms. A. D' Amore/Kathleen Allen Supervisor
Exhibit #30 B:- Letter to Ms. A. D' Amore/Kathleen Allen Request Appt. To Review Case Record
Exhibit #30C:- Southern Connecticut Gas Bill

Exhibit #33A:- Request Faxed letter to Francis A. Freer/Ms. Kiss/Mr. Hearn/Mr. Gatling to get copies of case record
Exhibit #33B:- Letter faxed to Frances Freer Request Missing Documents from Case Record Among Other Requests

Exhibit #1A:- Front Cover of Envelope sent to Karen Fraser
Exhibit #1B:- Hearing Request W-534 Form 10/27/2009
Exhibit #1C:- Transmission Report of Exhibit # 1B
Exhibit #1D:- Notice of Disqualification

Exhibit #2A:- Administrative Hearing Summary
Exhibit #2B:- Notification of Arrest/Court Disposition Form (part of Administrative Hearing Summary)
Exhibit #2C:- HOH History Report
Exhibit #2D:- 2nd Page of Hearing Summary Page
Exhibit #2E:- Six Pages of Department of Social Services Child Care Subsidy Regulations
Exhibit #17A:- Letter Sent From DSS-OLCRAH 2/26/2010 explanation of denial Of Administrative Due Process

Exhibit #37A:- Fax Cover Page to A. D' Amore/Kathleen Allen (supervisor)
Exhibit #37C:- W-1348 "Verification We Need" 2/14/2010
Exhibit #37B:- Contd. Page For Exhibit 37C

Exhibit #36A:- Fax Cover Page to A. D' Amore/Kathleen Allen (supervisor) 2/14/10
Exhibit #36B:- SNAP Dependent Care Agreement Form W-1224

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EXHIBIT PAGE 2

Exhibit #34A:- Fax Cover Page to Frances A. Freer, Regional Administrator 2/24/10

Exhibit #34B:- Letter to Frances A. Freer, Regional Administrator

Exhibit #35A:- Fax Cover Page 2/24/10 Complaint to USDA

Exhibit #35B:- Letter of Complaint USDA Office of Civil Rights

Exhibit #24:- Notice Of Content- NCON

Exhibit #3:- Faxed follow-up letter to administrative hearing request to Brenda Parrella, Director OLRACH

Exhibit #4:- Faxed letter of request to case record 12/24/2009

Exhibit #5:- Copied Copies of Case Record Requested on Exhibit 33A, Exhibit # 33B (10 PAGES)

Exhibit #6A:- Cover Page Addressed to Ms. D. Amore 1/12/2010

Exhibit #6B:- Cover Page Of J. DD. Of Fairfield at Bridgeport GA2 Criminal Court Transcript

Exhibit #6C:- Page 6 Contd. Of J.D. Of Fairfield at Bridgeport GA2 Criminal Court Transcript 10/16/2010

Exhibit #7:- Letter addressed & Faxed 5/14/2010 DSS-OLRACH

Exhibit #18:- Letter addressed & Faxed to Kathleen Allen(supervisor) 6/21/2010

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EXHIBIT PAGE 3

Exhibit #19:- Letter Faxed To Ms. Allen Eligibility Worker & Kathleen Allen (Sup) 7/09/2010

Exhibit #8:- Faxed Letter For hearing Addressed To DSS-OLRACH 7/12/2010

Exhibit #10:- Faxed Request for Fair Hearing Addressed To DSS-OLRACH 07/12/2010

Exhibit #20:- Faxed Request For Fair Hearing Addressed To DSS-OLRACH

Exhibit #11A:- Faxed letter 7/12/2010 To Ms. Kathleen Allen & Ann D' Amore

_Exhibit #11B:- 2nd contd. Page of Exhibit # 11A To Kathleen Allen (sup) & Ann D' Amore Eligibility Worker

Exhibit #24A:- Front Copy of envelope sent by Kathleen Allen (sup) 2/4/10

Exhibit #24B:- W-1348 dated 1/17/2010

Exhibit #24C:- Contd. of W-1348 from Exhibit # 24B

Exhibit #15:- W-1348 dated 5/30/2010

Exhibit #14:- W-1348 dated 6/19/2010

Exhibit #21:- W-1348 dated 6/21/2010

Exhibit #12:- W-1348 dated 7/10/2010

Exhibit #16A:- Fax Transmittal Form Addressed to Kathleen Allen(sup) & A. D' Amore (Eligibility Worker) 5/28/2010

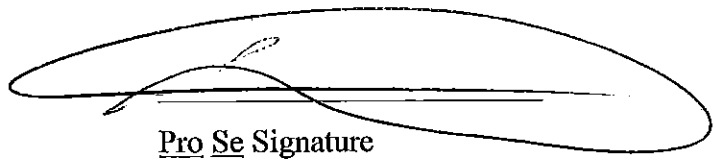
Exhibit #22:- Faxed letter sent to A. D' Amore (Eligibility Worker) & Kathleen Allen reply to W-1348 5/28/2010

Exhibit #16B:- 1099 Form faxed to A. D' Amore (Eligibility Worker) & Kathleen Allen

Exhibit #23:- W-1408 Landlord Verification Request 3/14/09

CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing pleading/document was mailed to: Dulce Fravao (Offical Capacity of OLCRAH Program Manager) and the Connecticut Department of Social Services 25 Sigourney Street Hartford, Connecticut 06106 on October 19, 2010.



Pro Se Signature